

REMARKS

Claims 1-10 and 14-23 are presently pending in the application. Claims 1, 11, 14 and 24 have been amended, and claims 2, 8 and 15 have been cancelled without prejudice. The limitations of claims 2 and 8 have been incorporated into claim 1, and the limitations of claim 15 have been incorporated into claim 14. Reexamination of the application and reconsideration of the claim rejections is respectfully requested in view of the arguments presented hereinbelow.

Claim Rejections – 35 U.S.C. § 102(b)

Claims 1-10 and 14-23 stand rejected under Section 102(b) as being anticipated by DeBay U.S. Patent No. 5,701,582 (“DeBay”). Applicant respectfully traverses this rejection and submits that DeBay fails to disclose or suggest the claimed invention.

In accordance with an aspect of the invention as set forth in representative claim 1, as amended, a method is provided for receiving performance information over a network for generating a pseudo-live performance. The method comprises the steps of:

detecting a need for the performance information, *wherein the step of detecting a need for the performance information comprises one or more of: determining a time of a previous information reception event, detecting a status of a storage device, and accessing a profile;*

selecting a process for obtaining the needed performance information;

executing the process for obtaining the needed performance information; and

generating the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information. Emphasis added.

This methodology enables an end user to generate a performance (e.g., music, news, advertisements and the like) *from locally stored information* in response to *commands received from a transmitting station via a network*. As described in the specification:

Instead of transmitting entire songs or movies, for example, the radio or television station can transmit a command for an end-user's performance reproduction device to reproduce the song or movie. The end-user's performance reproduction device, such as an enhanced radio or television

set, may access and reproduce the locally stored song or movie based on received commands. Since the radio or television station need not transmit the entire performance, network traffic can be significantly reduced. Additionally, since information is stored at or near the performance reproduction device and subsequently reproduced, commands and/or other information necessary to generate a performance may be transmitted asynchronously with generation of a performance. The commands and/or other information may be transmitted at speeds faster or slower than the performance. Thus, any available network resources may be used independent of the speed of the transmission. Therefore, network resources may be utilized more efficiently. Page 3, lines 10 – 25.

An exemplary application is described in the specification as follows:

In a first example, the performance reproduction device 300 is an enhanced radio in a traveling salesman's automobile. The salesman lives in Washington, D.C. and usually listens to radio stations located the Washington, D.C. and neighboring areas. The salesman then drives to California. The performance reproduction device 300 detects, using the GPS system, that it is now in a different area that is out of range of the Washington, D.C. radio stations, and therefore determines that information in the storage device 400 must be updated so that the performance reproduction device 300 can receive pseudo-live broadcasting from local stations that are now within broadcasting range. The performance reproduction device 300 then determines, based on an end-user profile stored in the profile memory 374, that the salesman wants to be able to listen to at least a jazz station, a classical station and an oldies station. The performance reproduction device 300 may then access the local station master table 450 and determine, based on current GPS coordinates of the performance reproduction device 300, a jazz station, a classical station and an oldies station that are within range. The performance reproduction device 300 may then determine, using the performance transmitter status detector 371 and/or the performance transmitter profiles 3744 of the performance information request device 370, when information can be requested from the respective radio stations. The performance reproduction device 300 may then generate an information request signal and/or tune in to the radio stations at an appropriate time to receive information. The radio stations then transmit the requested information, thus updating the appropriate sections of the storage device 400.

In another example, a vacationer from Atlanta, Georgia is on a cruise in the Mediterranean Sea, and wishes to listen to his or her favorite home radio station using the performance reproduction device 300. It is assumed for this example that satellite transmission or the like is used so

that the home radio station in Atlanta can transmit to the performance reproduction device 300 in the Mediterranean. However, the vacationer wants to hear Mediterranean weather reports, rather than Atlanta weather reports, so the performance reproduction device 300 is programmed to find a local radio station, using the GPS system and the local station master table 450, and request weather information to include when reproducing a pseudo-live performance. Specification at page 17, line 23 – page 18, line 21.

Thus, when a need for the performance information is detected, the performance reproduction device executes a process to obtain the needed performance information from the network. This performance information is then mixed with other information as shown, for example, in the above example where a user vacationing in the Mediterranean desires to hear Mediterranean weather reports in conjunction with other material from a favorite home station in Atlanta, Ga. It is respectfully submitted that DeBay fails to disclose or suggest this practice.

DeBay discloses a method of transmitting a program to multiple users over a distribution system. In particular, DeBay teaches transmitting a program divided into a plurality of segments from a head end to a multiplicity of “users’ receivers such that, at least some of the segments are transmitted more than once from the head end so as to enable multiple receivers of users requesting playback of the program at different times to simultaneously receive the segments required for continuous playback of the program.” Col. 2, lines 56 – 62. This is known as a “video on-demand” system. See, e.g., col. 5, line 35. Although DeBay discloses the downloading of segments of a video program to a user’s receiver for future viewing by the user, such segments are part of a *single program* (e.g., a movie). DeBay fails to disclose, suggest or mention anything corresponding to the claimed step of “generating the pseudo-live performance *by mixing information* corresponding to one or more portions of the needed performance information *with other information*.”

Furthermore, there is nothing in DeBay that corresponds to the claimed step of “detecting a need for the performance information, wherein the step of detecting a need for the performance information comprises one or more of: determining a time of a previous information reception event, detecting a status of a storage device, and accessing a profile.” Applicants respectfully submit that the Examiner’s citation to col. 7, lines 2-4,

col. 5, lines 1-10 and col. 12, lines 13-54 and col. 17, lines 6-38 is misplaced. See Office Action at page 2, ¶2. For example, col. 7, lines 2-4 merely states that "...the receiver is provided with a key pad 54 to enable a subscriber to initiate a request via the CATV network 36" for video on demand. There is no disclosure in DeBay of detecting a need for performance information to generate a pseudo-live live performance where the detecting step is predicated on "determining a time of a previous information reception event, detecting a status of a storage device," or "accessing a profile." With respect to determining a time of a previous information reception event, the Examiner cites to col. 12, lines 12-36 (against dependent claim 2). However, this section discloses that the receiver in DeBay simply examines the contents in its buffer memory to identify segments related to a selected program, and if the segments are already in the buffer, whether they should be kept or removed. This has nothing to do with detecting a need for performance information based on "determining a time of a previous reception event." With respect to "detecting a status of a storage device", the Examiner cites to col. 3, lines 25-31. However, this section discloses "a processing means including means for calculating whether segments already held in said buffer storage means will be presented on the distribution system prior to playback and if so removing such segments from the buffer storage means..." This does not teach or suggest detecting whether there is a need for performance information from the network. Finally, the Examiner cites to col. 11, lines 24-28 for the step of "accessing a profile." However, this section merely states "at the receiver, after the subscriber has sent a request the receiver scans the transmission channels and looks for the title ID. When the receiver finds the title ID it looks for the packet ID and stores any packets not already received in the buffer storage." There is no teaching, suggestion or mention here of accessing a user's profile as part of a step to detect a need for the performance information over the network. Accordingly, the step of "detecting a need for the performance information, wherein the step of detecting a need for the performance information comprises one or more of: determining a time of a previous information reception event, detecting a status of a storage device, and accessing a profile" is not disclosed or suggested in DeBay.

In view of the foregoing, it is respectfully submitted that independent claim 1 and those claims dependent on claim 1 are patentable over DeBay. Independent claim 14


contains the same limitations as claim 1. Therefore claim 14 and those claims dependent on claim 14 are patentable over DeBay for the same reasons set forth above. Independent claims 11 and 24 have been amended to incorporate the limitation "generating a pseudo-live performance by mixing information corresponding to one or more portions of the performance information with other information" as discussed above. It is therefore believed that these independent claims and those claims dependent thereon are likewise patentable over DeBay.

In view of the foregoing, Applicant submits that claims 1-10 and 14-23 are in condition for allowance and allowance of these claims at an early date is solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to AT&T Corp. Account No. 01-2745. The Examiner is invited to contact the undersigned at (201) 224-7957 to discuss any matter concerning this application.

Respectfully submitted,
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